

**Executive Summary – Enforcement Matter – Case No. 47194**  
**AZALI ENTERPRISES, L.L.C.**  
**RN106538309**  
**Docket No. 2013-1292-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

La Joya Bay Resort, located on the east side of the intersection of Ennis Joslin Road and McArdle Road, Corpus Christi, Nueces County

**Type of Operation:**

Construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 1, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,519

**Amount Deferred for Expedited Settlement:** \$2,903

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$11,616

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 19, 2013

**Date(s) of NOE(s):** June 19, 2013

**Executive Summary – Enforcement Matter – Case No. 47194**  
**AZALI ENTERPRISES, L.L.C.**  
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**Docket No. 2013-1292-WQ-E**

***Violation Information***

1. Failed to post legible copies of the construction site notice and notice of intent ("NOI") at the construction site in a location where it is readily available for viewing by the general public, local, state, and federal authorities. Specifically the construction site notice was not legible and the NOI was not posted [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") No. TXR15VI90, Part II, Section E.3(c)].
2. Failed to modify the Storm Water Pollution Prevention Plan ("SWP3") based on the results of inspections. Specifically, a review of the storm water inspection records conducted between November 22, 2012 through April 1, 2013 revealed several inspections that identified a need for additional best management practices ("BMPs"); however, no documentation was found in the SWP3 that indicated changes were made to BMPs at the Site as a result of these inspections. Additionally, the SWP3 was not updated when an additional entrance was added and when the perimeter controls were changed from silt fencing to hay bales between the Site and Oso Bay [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.7(d)].
3. Failed to maintain all sediment controls in effective operating condition. Specifically, the following deficiencies were noted: many of the sediment controls, including silt fences and hay bales, were damaged and ineffective; hay bales were completely engulfed in sediment; long sections between the Site and Oso Bay did not have control measures; the silt fencing between Ennis Joslin Road and the Site was not properly trenched; permanent storm drains were not protected and maintained; specifications for stabilization of the Site entrance were not implemented; and the bull rock did not meet the minimum depth of eight inches or the minimum length of 50 feet. Additionally, soil from the construction site was documented at greater than 50% of the above-ground height of the hay bale perimeter controls installed between the downhill slope of the Site and Oso Bay and on-site storm water inspection reports from November 22, 2012 to April 1, 2013 documented numerous deficiencies in the sediment controls that were not corrected [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.6(a), (b), and (c)].
4. Failed to place velocity dissipation devices at discharge locations and along the length of any outfall channel. Specifically, velocity control devices were not installed and erosion was observed at the outfalls [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.4(d)].

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***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 15 days, post a legible copy of the construction site notice.
- b. Within 30 days:
  - i. Submit written certification of compliance with a.; and
  - ii. Remove and properly dispose of sediment from the overwhelmed sediment controls and affected areas where sediment controls are not effective.
- c. Within 45 days:
  - i. Submit written certification of compliance with b.ii and b.iii; and
  - ii. Evaluate the effectiveness of the existing sediment and erosion controls to ensure that they can sufficiently retain sediment on-site to the extent practicable with consideration for local topography, soil type, and rainfall. Based on this evaluation, begin maintaining in effective operating condition all sediment control measures, including repairing or replacing all silt fences, installing additional sediment controls to prevent sediment from escaping the Site, stabilizing all Site entrances, and repairing damaged velocity dissipation devices.
- d. Within 60 days:
  - i. Submit written certification of compliance with c.ii; and
  - ii. Modify the SWP3 based on sediment control repairs or additions required by c.ii.
- e. Within 75 days, submit written certification of compliance with d.ii.

**Executive Summary – Enforcement Matter – Case No. 47194**  
**AZALI ENTERPRISES, L.L.C.**  
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**Docket No. 2013-1292-WQ-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Farhaud Abbaszadeh, Enforcement Division,  
Enforcement Team 1, MC 169, (512) 239-0779; Melissa Cordell, Enforcement Division,  
MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Ata O. (Alex) Azali, President, AZALI ENTERPRISES, L.L.C., P.O. Box  
8155, Corpus Christi, Texas 78468  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	24-Jun-2013	<b>Screening</b>	8-Jul-2013	<b>EPA Due</b>	
	<b>PCW</b>	9-Jul-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	AZALI ENTERPRISES, L.L.C.		
<b>Reg. Ent. Ref. No.</b>	RN106538309		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	47194	<b>No. of Violations</b>	4
<b>Docket No.</b>	2013-1292-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Brister
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$15,000**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

**Compliance History** **-5.0%** Enhancement **Subtotals 2, 3, & 7** **-\$750**

Notes: Enhancement for one NOV with same/similar violations and reduction for high performer classification.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$591  
Approx. Cost of Compliance \$7,050  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$14,250**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **1.9%** **Adjustment** **\$269**

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with Violation No. 2.

**Final Penalty Amount** **\$14,519**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$14,519**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$2,903**

Reduces the Final Assessed Penalty by the Indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$11,616**

Screening Date 8-Jul-2013

Docket No. 2013-1292-WQ-E

PCW

Respondent AZALI ENTERPRISES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 47194

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106538309

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same/similar violations and reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) -5%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -5%

Screening Date 8-Jul-2013

Docket No. 2013-1292-WQ-E

PCW

Respondent AZALI ENTERPRISES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 47194

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106538309

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") No. TXR15VI90, Part II, Section E.3(c)

Violation Description

Failed to post legible copies of the construction site notice and notice of intent ("NOI") at the construction site in a location where it is readily available for viewing by the general public, local, state, and federal authorities, as documented during an investigation conducted on April 19, 2013. Specifically, the construction site notice that was posted was not legible.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

80 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,210

This violation Final Assessed Penalty (adjusted for limits) \$1,210

# Economic Benefit Worksheet

**Respondent** AZALI ENTERPRISES, L.L.C.

**Case ID No.** 47194

**Reg. Ent. Reference No.** RN106538309

**Media** Water Quality

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	19-Apr-2013	31-Mar-2014	0.95	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to post a legible copy of the construction site notice. Date required is the investigation date and final date is the anticipated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$2



# Economic Benefit Worksheet

Respondent AZALI ENTERPRISES, L.L.C.

Case ID No. 47194

Reg. Ent. Reference No. RN106538309

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$50	19-Apr-2013	31-Mar-2014	0.95	\$2	\$2

Notes for DELAYED costs

Estimated cost to post a legible copy of the construction site notice. Date required is the investigation date and final date is the anticipated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$2

# Economic Benefit Worksheet

**Respondent** AZALI ENTERPRISES, L.L.C.

**Case ID No.** 47194

**Reg. Ent. Reference No.** RN106538309

**Media** Water Quality

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	19-Apr-2013	31-Mar-2014	0.95	\$12	n/a	\$12

**Notes for DELAYED costs**

Estimated cost to modify the SWP3 based on sediment control repairs or additions. Date required is the investigation date and final date is the anticipated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$250	29-Nov-2012	8-Jul-2013	1.52	\$19	\$250	\$269

**Notes for AVOIDED costs**

Estimated cost that was avoided by failing to update the SWP3 based on the inspection results (estimated at \$50 per month). Date required is the date the first modifications were due. Final date is the screening date.

**Approx. Cost of Compliance**

\$500

**TOTAL**

\$281

Screening Date 8-Jul-2013

Docket No. 2013-1292-WQ-E

PCW

Respondent AZALI ENTERPRISES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 47194

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106538309

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.6(a), (b), and (c)

## Violation Description

Failed to maintain all sediment controls in effective operating condition and failed to remove sediment from perimeter controls before it reached 50% of the above-ground height, as documented during an investigation conducted on April 19, 2013. Specifically, the following deficiencies were noted: many of the sediment controls, including silt fences and hay bales, were damaged and ineffective; hay bales were completely engulfed in sediment; long sections between the Site and Oso Bay did not have control measures; the silt fencing between Ennis Joslin Road and the Site was not properly trenched; permanent storm drains were not protected and maintained; specifications for stabilization of the Site entrance were not implemented; and the bull rock did not meet the minimum depth of eight inches or the minimum length of 50 feet. Additionally, soil from the construction site was documented at greater than 50% of the above-ground height of the hay bale perimeter controls installed between the downhill slope of the Site and Oso Bay and on-site storm water inspection reports from November 22, 2012 to April 1, 2013 documented numerous deficiencies in the sediment controls that were not corrected.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would exceed protective levels as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 3

80 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the investigation date (April 19, 2013) to the screening date (July 8, 2013).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

Notes

x

(mark with x)

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$308

Violation Final Penalty Total \$10,889

This violation Final Assessed Penalty (adjusted for limits) \$10,889

# Economic Benefit Worksheet

**Respondent** AZALI ENTERPRISES, L.L.C.

**Case ID No.** 47194

**Reg. Ent. Reference No.** RN106538309

**Media** Water Quality

**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,500	19-Apr-2013	31-Mar-2014	0.95	\$308	n/a	\$308

**Notes for DELAYED costs**

Estimated cost to remove sediment from affected areas and to evaluate the effectiveness of the existing sediment and erosion controls to ensure that they can sufficiently retain sediment on-site to the extent practicable with consideration for local topography, soil type, and rainfall and maintain all sediment control measures in effective operating condition. Date required is the investigation date and final date is the anticipated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$6,500

**TOTAL**

\$308

Screening Date 8-Jul-2013

Docket No. 2013-1292-WQ-E

PCW

Respondent AZALI ENTERPRISES, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 47194

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106538309

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.4(d)

## Violation Description

Failed to place velocity dissipation devices at discharge locations and along the length of any outfall channel, as documented during an investigation conducted on April 19, 2013. Specifically, velocity control devices were not installed and erosion was observed at the outfalls.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that would not exceed protective levels as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

80 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (April 19, 2013) to the screening date (July 8, 2013).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,210

This violation Final Assessed Penalty (adjusted for limits) \$1,210

# Economic Benefit Worksheet

**Respondent** AZALI ENTERPRISES, L.L.C.

**Case ID No.** 47194

**Reg. Ent. Reference No.** RN106538309

**Media** Water Quality

**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 3.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN603283664, RN106538309, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN603283664, Azali Enterprises, L.L.C. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN106538309, LA JOYA BAY RESORT **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 09 - Construction

**Location:** ON THE EAST SIDE OF THE INTERSECTION OF ENNIS JOSLIN ROAD AND MCARDLE ROAD, CORPUS CHRISTI, NUECES COUNTY, TEXAS

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):** STORMWATER PERMIT TXR15VI90

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** August 28, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 28, 2005 to August 28, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Heather Brister **Phone:** (254) 761-3034

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**  
N/A
- B. Criminal convictions:**  
N/A
- C. Chronic excessive emissions events:**  
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1      Date:      **02/15/2013** (1053566)      CN603283664  
Self Report?   NO      Classification:      Moderate  
Citation:      30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
  
Description:      Part II. Section E. 3.(c) PERMIT  
Part II. Section E. 3.(d) PERMIT  
Failed to post copies of the construction site notice and NOI at the construction site in a location where it is readily available for viewing by the general public, local, state, and federal authorities until the completion of construction activity.  
  
During the investigation conducted on December 19, 2012, the large construction site notice and the NOI were not posted at the construction site.  
Self Report?   NO      Classification:      Moderate  
Citation:      30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
Part III. Section F. 6.(c) PERMIT  
Description:      Failed to removed trapped sediment from perimeter controls before it reached 50% of the above-ground height.  
  
During the investigation conducted on December 19, 2012, soil from the construction site was documented at greater than 50% of the above-ground height of the hay bale perimeter controls installed between the downhill slope of the construction site and the Oso Bay.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AZALI ENTERPRISES, L.L.C.  
RN106538309

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2013-1292-WQ-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AZALI ENTERPRISES, L.L.C. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates a construction site located on the east side of the intersection of Ennis Joslin Road and McArdle Road in Corpus Christi, Nueces County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 24, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fourteen Thousand Five Hundred Nineteen Dollars (\$14,519) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Six Hundred

Sixteen Dollars (\$11,616) of the administrative penalty and Two Thousand Nine Hundred Three Dollars (\$2,903) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As operator of the Site, the Respondent is alleged to have:

1. Failed to post legible copies of the construction site notice and notice of intent ("NOI") at the construction site in a location where it is readily available for viewing by the general public, local, state, and federal authorities, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") No. TXR15VI90, Part II, Section E.3(c), as documented during an investigation conducted on April 19, 2013. Specifically the construction site notice that was posted was not legible.
2. Failed to modify the Stormwater Pollution Prevention Plan ("SWP3") based on the results of inspections, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.7(d), as documented during an investigation conducted on April 19, 2013. Specifically, a review of the stormwater inspection records conducted between November 22, 2012 through April 1, 2013 revealed several inspections that identified a need for additional best management practices ("BMPs"); however, no documentation was found in the SWP3 that indicated changes were made to BMPs at the Site as a result of these inspections. Additionally, the SWP3 was not updated when an additional entrance was added and when the perimeter controls were changed from silt fencing to hay bales between the Site and Oso Bay.

3. Failed to maintain all sediment controls in effective operating condition and failed to remove sediment from perimeter controls before it reached 50% of the above-ground height, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.6(a), (b), and (c), as documented during an investigation conducted on April 19, 2013. Specifically, the following deficiencies were noted: many of the sediment controls, including silt fences and hay bales, were damaged and ineffective; hay bales were completely engulfed in sediment; long sections between the Site and Oso Bay did not have control measures; the silt fencing between Ennis Joslin Road and the Site was not properly trenched; permanent storm drains were not protected and maintained; specifications for stabilization of the Site entrance were not implemented; and the bull rock did not meet the minimum depth of eight inches or the minimum length of 50 feet. Additionally, soil from the construction site was documented at greater than 50% of the above-ground height of the hay bale perimeter controls installed between the downhill slope of the Site and Oso Bay and on-site storm water inspection reports from November 22, 2012 to April 1, 2013 documented numerous deficiencies in the sediment controls that were not corrected.
4. Failed to place velocity dissipation devices at discharge locations and along the length of any outfall channel, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15VI90, Part III, Section F.4(d), as documented during an investigation conducted on April 19, 2013. Specifically, velocity control devices were not installed and erosion was observed at the outfalls.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: AZALI ENTERPRISES, L.L.C., Docket No. 2013-1292-WQ-E" to:  
  

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 15 days after the effective date of this Agreed Order, post a legible copy of the construction site notice;
- b. Within 30 days after the effective date of this Agreed Order:
  - i. Submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.f below; and
  - ii. Remove and properly dispose of sediment from the overwhelmed sediment controls and affected areas where sediment controls are not effective.
- c. Within 45 days after the effective date of this Agreed Order:
  - i. Submit written certification of compliance with Ordering Provision Nos. 2.b.ii and 2.b.iii, in accordance with Ordering Provision No. 2.f below; and
  - ii. Evaluate the effectiveness of the existing sediment and erosion controls to ensure that they can sufficiently retain sediment on-site to the extent practicable with consideration for local topography, soil type, and rainfall. Based on this evaluation, begin maintaining in effective operating condition all sediment control measures, including repairing or replacing all silt fences, installing additional sediment controls to prevent sediment from escaping the Site, stabilizing all Site entrances, and repairing damaged velocity dissipation devices.
- d. Within 60 days after the effective date of this Agreed Order:
  - i. Submit written certification of compliance with Ordering Provision No. 2.c.ii, in accordance with Ordering Provision No. 2.f below; and
  - ii. Modify the SWP3 based on sediment control repairs or additions required by Ordering Provision No. 2.c.ii.
- e. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.d.ii, in accordance with Ordering Provision No. 2.f below; and
- f. The certifications of compliance required by Ordering Provision Nos. 2.b.i, 2.c.i, 2.d.i, and 2.e, shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my

knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but

not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

*Pamela Marie J*  
For the Executive Director

7/21/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Alex Azali*  
Signature

3/24/16  
Date

ALEX AZALI  
Name (Printed or typed)  
Authorized Representative of  
AZALI ENTERPRISES, L.L.C.

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.